

# HOUSE BILL 408

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By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: January 29, 2010

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Commission of Real Estate Appraisers and Home Inspectors**  
3 **– Administrative Sanctions – Civil Penalty**

4 FOR the purpose of authorizing the State Commission of Real Estate Appraisers and  
5 Home Inspectors to consider certain factors before granting, denying, renewing,  
6 suspending, or revoking a home inspector license or reprimanding a licensee when  
7 the applicant or licensee has been convicted of a certain crime; authorizing the  
8 Commission to impose a civil penalty instead of, or in addition to, the imposition of  
9 an administrative sanction against a licensed home inspector under certain  
10 circumstances; and generally relating to the State Commission of Real Estate  
11 Appraisers and Home Inspectors.

12 BY repealing and reenacting, with amendments,  
13 Article – Business Occupations and Professions  
14 Section 16–701.1  
15 Annotated Code of Maryland  
16 (2004 Replacement Volume and 2009 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – Business Occupations and Professions**

20 16–701.1.

21 **(A)** Subject to the hearing provisions of § 16–602 of this title, the Commission  
22 may deny a home inspector license to any applicant, reprimand any home inspector  
23 licensee, or suspend or revoke a home inspector license if the applicant or licensee:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) fraudulently or deceptively obtains or attempts to obtain a license  
2 for the applicant or licensee or for another;

3 (2) fraudulently or deceptively uses a license;

4 (3) engages in conduct that demonstrates bad faith, incompetency,  
5 negligence or untrustworthiness, or that constitutes dishonest, fraudulent, or  
6 improper dealings;

7 (4) under the laws of the United States or of any state, is convicted of:

8 (i) a felony; or

9 (ii) a misdemeanor that is directly related to the fitness and  
10 qualification of the applicant or licensee to provide home inspection services;

11 (5) fails to maintain the insurance required under § 16-4A-04 of this  
12 title;

13 (6) violates any provision of this title;

14 (7) violates any regulation adopted under this title; or

15 (8) aids, abets, or assists any person in violating any provision of this  
16 title or any regulation adopted under this title.

17 **(B) (1) INSTEAD OF OR IN ADDITION TO REPRIMANDING A LICENSEE**  
18 **OR SUSPENDING OR REVOKING A LICENSE UNDER THIS SECTION, THE**  
19 **COMMISSION MAY IMPOSE A PENALTY NOT EXCEEDING \$5,000 FOR EACH**  
20 **VIOLATION.**

21 **(2) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED, THE**  
22 **COMMISSION SHALL CONSIDER:**

23 **(I) THE SERIOUSNESS OF THE VIOLATION;**

24 **(II) THE HARM CAUSED BY THE VIOLATION;**

25 **(III) THE GOOD FAITH OF THE LICENSEE; AND**

26 **(IV) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE**  
27 **LICENSEE.**

28 **(3) THE COMMISSION SHALL PAY ANY PENALTY COLLECTED**  
29 **UNDER THIS SUBSECTION INTO THE GENERAL FUND OF THE STATE.**

1           **(C) THE COMMISSION SHALL CONSIDER THE FOLLOWING FACTS IN THE**  
2 **GRANTING, DENIAL, RENEWAL, SUSPENSION, OR REVOCATION OF A LICENSE OR**  
3 **THE REPRIMAND OF A LICENSEE WHEN AN APPLICANT OR LICENSEE IS**  
4 **CONVICTED OF A FELONY OR A MISDEMEANOR DESCRIBED IN SUBSECTION**  
5 **(A)(4) OF THIS SECTION:**

6                   **(1) THE NATURE OF THE CRIME;**

7                   **(2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES**  
8 **AUTHORIZED BY THE LICENSE;**

9                   **(3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE**  
10 **CONVICTION TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR**  
11 **LICENSEE TO PROVIDE HOME INSPECTION SERVICES;**

12                   **(4) THE LENGTH OF TIME SINCE THE CONVICTION; AND**

13                   **(5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR**  
14 **LICENSEE BEFORE AND AFTER THE CONVICTION.**

15           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2010.